

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 1-37 are cancelled. Claims 38-52 remain in this application and, as amended herein, are submitted for the Examiner's reconsideration.

Applicant expresses appreciation to the Examiner for the telephone interview held on October 6, 2008 during which the restriction requirement, the informality objections and rejections, and the arguments presented herein in response thereto were discussed.

In the Office Action, the Examiner required restriction to one of the following inventions under 35 U.S.C. § 121:

- I. Claims 38-42, drawn to a method.
- II. Claims 43-47 and 48-52, drawn to a system.

However, during the telephone interview, the Examiner indicated that the restriction requirement was solely informational and that no election of an invention is presently required.

The specification was objected to "as failing to provide proper antecedent basis for the claimed subject matter." The Examiner contended that "[c]orrection of the following is required: 'receiving means for receiving' ..., 'obtaining means for obtaining' ..., 'encrypting means for encrypting' ..., 'adding means for adding' ..., 'transmitting means for transmitting' ..., and 'generating means for generating' ..., as recited in claim 43."

Claims 43-47 have been amended. Support for the claims is found, e.g., in Figs. 5, 11, 14, 15, 18, and 19, and on pages 15-16, 18-19, 38-39, 42-45, and 52-56 of the specification.

Claims 38 and 48-52 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the

written description requirement.

The Examiner contends that "Claim 38 recites 'receiving a request for specified content from a user terminal' which lacks support in Applicants' original specification." Support for this feature is found, e.g., in step ST54 of Fig. 13, step ST61 of Fig. 14, and step T11 of Fig. 15 as well as in their corresponding descriptions pages 41-42 and 44-45 of the specification.

The Examiner also contends that:

...Claim 38, recites: "transmitting the encrypted content and the added content ID through the user terminal to a player" which lacks support in Applicants' original specification. However, the Examiner noticed that the "transferring" was used to describe the communication between the player and the user terminal (see for example figure 15). ...

Applicant notes that the terms "transferring" and "transmitting" are synonymous and respectfully points out that, as M.P.E.P. § 2163.02 set forth, "[t]he subject matter of the claim need not be described literally (i.e., using the same terms or in *haec verba*) in order for the disclosure to satisfy the description requirement." (Emphasis added.)

The Examiner further contends that "no support exists in Applicants' original specification for the following limitations: ...'a receiving unit that receives...'[,]' 'an obtaining unit that obtains...'[,]' 'a[n] encrypting unit that encrypts...'[,]' 'an adding unit that adds...'[,]' 'a transmitting unit that transmits...'[,]' 'a generating unit that generates...'[, and] 'the receiving unit... receives...' as recited in at least claim 48."

Claims 48-52 have been amended. Support for the claims is found, e.g., in Figs. 5, 11, 14, 15, 18, and 19 and on pages 15-16, 18-19, 38-39, 42-45, and 52-56 of the specification.

Applicant therefore submits that claims 38 and 48-52 are in full compliance with the requirements of 35 U.S.C. § 112,

first paragraph.

Claims 38-52 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 38-52 have been amended. Support for these claims is set out above.

Applicant therefore submits that claims 38-52 are in full compliance with the requirements of 35 U.S.C. § 112, second paragraph.

Turning to the art rejections, claims 38-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ginter (U.S. Patent No. 5,892,900) in view of Stefik (U.S. Patent No. 5,629,980). Applicants submit that the claims are patentably distinguishable over the relied on art.

Independent claims 38, 43, and 48 have been amended to more clearly show the differences between the claimed features and the relied on art. No new matter has been added by these changes. Support for these changes is found, e.g., in steps ST78 and ST79 of Fig. 16, steps ST95 and ST96 of Fig. 18, and steps T26 and T27 of Fig. 19 as well as in their corresponding descriptions pages 49-50, 54-55, and 56 of the specification.

As amended herein, claim 38 recites:

at a time subsequent to the transmitting of the encrypted content and the added content ID through the user terminal to the player,

receiving, when the user wishes to reproduce the encrypted content using the player, a request for the content key and the use condition from the player through the user terminal, the request including the content ID,

in response thereto, transmitting the content key and the use condition through the user terminal to the player,

receiving, from the player through the user terminal, an encoded message indicating that the player has received the content key and the use condition, and

decoding the encoded message to confirm that the player has received the content key and the use condition.

(Emphasis added.) Neither the relied on sections of Ginter nor the relied on sections of Stefik disclose or suggest receiving, from a player through a user terminal, an encoded message indicating that the player has received a content key and a use condition. Moreover, neither the relied on sections of Ginter nor the relied on sections of Stefik disclose or suggest decoding an encoded message to confirm that the player has received the content key and the use condition.

Rather, such sections of Ginter simply describe that an end user's electronic appliance sends at least one administrative object containing audit information to a clearinghouse, the clearinghouse then sends one or more responsive administrative objects to the electronic appliance, and the electronic appliance then updates its database contents based on the received administrative object. (See Fig.35 steps 1158-1162, col.168 ll.53-62, and col.169 ll.6-12.) Such sections of the patent also merely describe that an end user's electronic appliance may send an administrative object to the clearinghouse requesting budgets and/or other permissions allowing access, and the clearinghouse then sends one or more responsive administrative objects which cause the electronic appliance to update its secure database in response. (See Fig.35 steps 1164-1168, and col.169 ll.44-48 and 57-61.) The relied on sections of Ginter do not teach that the clearinghouse receives an encoded message from the end user's electronic appliance indicating that the electronic appliance has received the responsive administrative objects, and therefore such sections do not teach that the clearinghouse decodes such encoded message. Hence, the relied on sections of Ginter do not

disclose or suggest the steps set out in emphasis in the above excerpt of claim 38.

The relied on sections of Stefik do not remedy the deficiencies of the relied on sections of Ginter.

It follows, for at least these reasons, that neither the relied on sections of Ginter nor the relied on sections of Stefik, whether taken alone or in combination, disclose or suggest the method set out in claim 38. Claim 38 is therefore patentably distinct and unobvious over the relied on references.

Independent claims 43 and 48 each recite features similar to those set out in the above excerpts of claim 38. Claims 43 and 48 are therefore each patentably distinct and unobvious over the relied on sections of Ginter and Stefik for at least the same reasons.

Claims 39-42 depend from claim 38, claims 44-47 depend from claim 43, and claims 49-52 depend from claim 48. Therefore, each of these claims is distinguishable over the relied on art for at least the same reasons as the claim from which it depends.

Accordingly, Applicants respectfully request the withdrawal of the Examiner's objections and the withdrawal of the rejections under 35 U.S.C. §§ 103(a), 112, first paragraph, and 112, second paragraph.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

Application No.: 10/690,911

Docket No.: SONYJP 3.0-1210 DIV II

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 7, 2008

Respectfully submitted,

By 

Lawrence E. Russ

Registration No.: 35,342

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant

910553_1.DOC